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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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J.-J. PAUVERT d/b/a
ÉDITIONS J.-J. PAUVERT and KENNETH
ANGER,

Civil Action No.

Plaintiffs,

456 P/20

-against-

AQUARIUS RELEASING, INC., MARVIN MILLER, INSTITUTE FOR ADULT EDUCATION, HARRY BRANDT d/b/a BRANDT THEATRES, STRONGBO PROPERTIES, INC., and ASSOCIATED PROFESSIONAL SERVICES, INC.,

COMPLAINT & Flust.

Defendants.

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Plaintiffs, J.- J. PAUVERT and KENNETH ANGER by and through their attorneys, DORNBUSH MENSCH & MANDELSTAM, as and for their complaint allege as follows:

GENERALLY AS TO ALL CAUSES OF ACTION CONTAINED HEREIN:

1. Plaintiff J.- J. Pauvert (hereinafter "Pauvert") is a citizen of the Republic of France and is engaged in the business of publishing books in France under the name "editions J.-J. Pauvert" and has his principal offices at 8 Rue de Nesle, Paris, France.

2. Plaintiff Kenneth Anger (hereinafter "Anger") is a citizen of the United States and resides at 120 Mount Street, London, W. 1, England.

3. Upon information and belief, defendant Marvin Miller (hereinafter "Miller") is a resident of California and has offices at 5959 Hollywood Boulevard, Hollywood, California.

4. Upon information and belief, defendant Strongbo Properties, Inc. (hereinafter "Strongbo") is a California

corporation, having its principal office at 5959 Hollywood Boulevard, Hollywood, California.

5. Upon information and belief, defendants Miller and/or Strongbo are engaged in the motion picture production business under the name of Institute for Adult Education(hereinafter "IAE") with offices at 5959 Hollywood Boulevard, Hollywood, California.

6. Upon information and belief, defendant Associated Professional Services, Inc. (hereinafter "Associated") was an Arizona corporation which was dissolved in September 1968 by an order of the Secretary of State of Arizona for failure to file annual reports.

7. Upon information and belief defendant Miller was responsible for the conduct of the business and affairs of Associated.

8. Upon information and belief, defendant Aquarius Releasing, Inc. (hereinafrer "Aquarius") is a New York corporation with its principal office at 229 West 42nd Street, New York, New York and is in the business of distributing motion pictures.

9. Upon information and belief, defendant Harry Brandt (hereinafter "Brandt") is a resident of New York who owns and operates numerous motion picture theatres and is engaged in the motion picture exhibition business under the name "Brandt Theatres" with principal offices at 240 West 42nd Street, New York, New York.

10. As to plaintiff Pauvert, the causes of action set forth herein arise under the Copyright Laws of the United States (Title 17 U.S.C. Section 1, et seq.). This Court has jurisdiction pursuant to 28 U.S.C. Section 1338.

11. As to plaintiff Anger the matter in controversy exceeds, exclusive of interest and costs, the sum of $10,000

and this Court has jurisdiction based on diversity of citizenship.

AS AND FOR A FIRST CAUSE OF ACTION AGAINST DEFENDANTS MILLER AND ASSOCIATED, PLAINTIFF PAUVERT ALLEGES:

12. Plaintiff Pauvert repeats and realleges each and every allegation contained in paragraphs 1,2,3,6 and 7 hereof with the same effect as if they were fully set forth herein.

13. On or about November 26, 1957 Pauvert engaged Anger as an employee for hire to write a book in the French language concerning American motion picture personalities.

14. Pursuant to such employment, prior to December 31, 1959, Anger wrote and delivered to Pauvert a completed manuscript together with pictorial material to illustrate its contents.

15. Prior to December 31, 1959, Pauvert published the manuscript written by Anger in France in the French language under the title "Hollywood Babylone" (the completed manuscript, as published, is referred to herein as the "Book").

16. The Book contained the following notice of copyright on the title page thereof "© 1959, by éditions J.-J. Pauvert". Such copyright notice complied in all respects with the provisions of the United States Copyright Laws (Title 17 U.S.C. Section 19) and was sufficient to secure to Pauvert, as author of a work made for hire, copyright protection in the Book under the Copyright Laws of the United States (Title 17 U.S.C. Sections 9 & 26).

17. Since 1959 Pauvert has been and still is, the sole owner of the copyright in the Book in the United States, France and elsewhere throughout the world.

18. In August, 1964, Miller began discussions with Anger with a view to acquiring the right to publish an English

language version of the Book. At Miller's request, and in connection with the foregoing Anger delivered to Miller an English translation of approximately the first half of the Book.

19. Neither Pauvert nor Anger nor anyone acting on their behalf granted to Miller or to any other person any rights to publish the Book in the English language.

20. On or about May 21, 1965 Miller and Associated, published an English language version of the Book under the title "Hollywood Babylon" (referred to as the "Infringing Book").

21. The Infringing Book consists of the translation of a portion of the Book which Anger delivered to Miller, supplemented by a translation of the balance of the Book, together with pictorial material taken from the Book and additional pictorial material which Anger had made available to Miller during their discussions in August, 1964. The cover of the Infringing Book is substantially the same as the cover of the Book. Anger's name appears on the cover of the Infringing Book. The Infringing Book contains the following copyright notice on the title page thereof: "© copyright 1965 By Associated Professional Services, Inc." Copies of the cover and title pages of the Book and the Infringing Book are attached hereto as Exhibits A and B respectively.

22. Upon information and belief, from and after May 21, 1965, defendants Miller and Associated have been engaged in the sale or distribution of copies of the Infringing Book. Upon information and belief approximately two million copies of the Infringing Book have been sold by defendants Miller and Associated.

23. Neither Pauvert nor Anger nor anyone associated with them has ever received any compensation for the deliberate unauthorized copying of the Book by the defendants.

24. Pauvert by and through his attorney has notified defendants that they have infringed the copyright of plaintiff, and defendants have continued to infringe such copyright.

25. By reason of the foregoing acts of Miller and Associated, Pauvert has suffered and will continue to suffer substantial injury unless this Court grants the relief sought herein.

26. Pauvert has no adequate remedy at law.

AS AND FOR A SECOND CAUSE OF ACTION AGAINST DEFENDANTS MILLER, STRONGBO and IAE, PLAINTIFF PAUVERT ALLEGES:

27. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 5 and 13 through 24 hereof with the same effect as if they were fully set forth herein.

28. Prior to December 1, 1971, Miller and Strongbo caused IAE to make and produce a motion picture entitled Hollywood Babylon (hereinafter referred to as the "Film") in infringement of the plaintiff's copyright in the Book.

29. On information and belief the Film is based upon the Book and is a crude attempt to present the incidents in the Book in motion picture form, and presents such incidents in the same sequence as they appear in the Book.

30. Upon information and belief prior to December 1, 1971, Miller and Strongbo caused IAE to produce a "trailer" advertising the Film which includes sequences from the Film as well as a picture of the cover of the Infringing Book.

31. Upon information and belief IAE is credited in the Film as the Producer of the Film.

32. Upon information and belief Miller is credited in the Film as the Executive Producer of the Film.

33. Neither Pauvert nor Anger, nor anyone acting in their behalf granted to Miller, Strongbo or IAE the right to make a motion picutre based on or adapted from the Book.

34. Neither Pauvert nor Anger, nor anyone associated with them has ever received any compensation for the right to make a motion picture adaptation of the Book.

35. Pauvert by and through his attorney has notified defendants that they have infringed the copyright of plaintiff, and defendants have continued to infringe such copyright.

36. By reason of the foregoing acts of Miller, Associated and IAE, Pauvert has suffered and will continue to suffer substantial injury unless this Court grants the relief sought herein.

37. Pauvert has no adequate remedy at law.

AS AND FOR A THIRD CAUSE OF ACTION AGAINST DEFENDANTS MILLER, STRONGBO, IAE and AQUARIUS, PLAINTIFF PAUVERT ALLEGES:

38. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 5,8, 13 through 24,& 28 through 35 hereof with the same effect as if they were fully set forth herein.

39. Upon information and belief prior to December 1, 1971, Miller and IAE entered into an agreement with Aquarius purporting to grant to Aquarius certain rights to distribute the Film.

40. Upon information and belief between October 1971 and continually until the date hereof, Aquarius has exhibited the Film in New York City and elsewhere to representatives of operators of motion picture theatres, to the press, and to others in an effort to promote the sale of the exhibition rights in the Film.

41. Upon information and belief, Aquarius has caused the Film to be exhibited to the public in motion picture theatres located in California and elsewhere in the United States.

42. Upon information and belief, between October 1971, and continually until the date hereof, defendant Aquarius has made numerous sales to unknown persons of the right to exhibit the Film to the public in motion picture theatres located in New York City and elsewhere throughout the United States.

43. Neither Pauvert nor Anger nor anyone acting on their behalf granted to Miller, Strongbo, IAE or Aquarius the right to sell or exhibit the Film or any other motion picture based on the Book.

44. Neither Pauvert nor Anger nor anyone associated with them has ever received any compensation for the deliberate unauthorized sale or exhibition of the Film.

45. Pauvert by and through his attorney has notified defendants that they have infringed the copyright of plaintiff, and defendants have continued to infringe such copyright.

46. By reason of the foregoing acts of Miller, Strongbo, IAE and Aquarius, Pauvert has suffered and will continue to suffer substantial injury unless this Court grants the relief sought herein.

47. Pauvert has no adequate remedy at law.

AS AND FOR A FOURTH CAUSE OF ACTION AGAINST DEFENDANTS MILLER, STRONGBO, IAE, AQUARIUS AND BRANDT, PLAINTIFF PAUVERT ALLEGES:

48. Plaintiff repeats and realleges each and every allegation contained in paragraph 1 through 5,8,9, 13 through 24, 28 through 35& 39 through 45 hereof with the same effect as if they were fully set forth herein.

49. Upon information and belief on or about January 15, 1972 defendant Aquarius acting either alone or in concert with defendants Miller, Strongbo, and IAE entered into an agreement with Brandt purporting to grant to Brandt the right to exhibit the Film in certain motion picture theatres in New York City and elsewhere, owned or operated by Brandt.

50. Upon information and belief Brandt intends to exhibit the Film in his theatres in New York City and elsewhere commencing on or about February 9, 1972.

51. Neither Pauvert nor Anger nor anyone acting on their behalf granted to Defendants any right to exhibit the Film.

52. Neither Pauvert nor Anger nor anyone associated with them has ever received any compensation from Defendants for the deliberate unauthorized production of the Film.

53. Pauvert by and through his attorney has notified defendants that they have infringed the copyright of Plaintiff, and Defendants have continued to infringe such copyright.

54. By reason of the foregoing acts of Miller, Strongbo, IAE, Aquarius and Brandt, Pauvert has suffered and will continue to suffer substantial injury unless this Court grants the relief sought herein.

55. Pauvert has no adequate remedy at law.

AS AND FOR A FIFTH CAUSE OF ACTION AGAINST DEFENDANTS MILLER and ASSOCIATED, PLAINTIFF ANGER ALLEGES:

56. Plaintiff Anger repeats and realleges each and every allegation contained in paragraph 1,2,3,6,7, and 13 through 24 hereof with the same effect as if they were fully set forth herein.

57. This cause of action arises under the New York Civil Rights Law, Section 51.

58. The Infringing Book is published, distributed and sold by defendants with the name Kenneth Anger appearing on the cover thereof.

59. Upon information and belief, Miller and Associated have as the result of the unauthorized use of the name Kenneth Anger in connection with the sale of the Infringing Book, derived substantial profits, gains and other advantages in amounts not known to plaintiff.

60. The use by defendants of plaintiff's Anger's name was entirely unauthorized and without plaintiff's oral or written consent and such use by the defendant was entirely unlawful.

61. Plaintiff has no adequate remedy at law.

AS AND FOR A SIXTH CAUSE OF ACTION AGAINST DEFENDANTS, MILLER, STRONGBO, IAE and AQUARIUS, PLAINTIFF ANGER ALLEGES:

62. Plaintiff Anger repeats and realleges each and every allegation contained in paragraphs 1 through 5,8, 13 through 24, 29 through 35, 39 through 45 and 49 through 52 hereof with the same effect as if they were fully set forth herein.

63. Upon information and belief, defendants, in furtherance of their efforts to sell, market and distribute the Film, have engaged in an active promotional campaign including but not limited to the issuance of press releases and other public announcements relating to the Film.

64. Upon information and belief, the promotional materials used by defendants refer to Kenneth Anger as the author of the Book and to the fact that the Film is based on the Book.

65. Upon information and belief the materials contained in such press releases and other information supplied by defendants was used as the basis for articles, advertisements and other promotional materials relating to the Film published in various newspapers, magazines and trade publications, including but not limited to articles appearing in Variety on October 20, 1971 and in the New York Times on November 14, 1971, both being newspapers published and distributed in the State, County and City of New York. Copies of the foregoing articles are attached hereto as Exhibits C and D respectively.

66. Anger is, and since 1947 has been a well known and highly regarded producer and director of motion picture films. The films which he produced and directed include Scorpio Rising (1964), Fireworks (1947), Inauguration of the Pleasure Dome (1966), Invocation of My Demon Brother (1969) and Lucifer Rising (1971).

67. Upon information and belief, defendant Miller has a wide reputation as a dealer in and purveyor of pictorial and written material devoted principally to graphic descriptions and

illustrations of sexual activity of a type and character which are widely regarded as bordering on violating the various federal and state laws governing pornography and obscenity.

68. Upon information and belief IAE is widely known as the producer of films relating to sexual activity including, but not limited to, a film entitled "The Sensually Liberated Female", a film which depicts in considerable detail various sexual activities in a manner which borders on violating the various federal and state laws governing pornography and obscenity.

69. Upon information and belief the Film deals with and depicts in great detail various forms of aberrant sexual behavior allegedly indulged in by the personalities whose stories are told in the Film, in a manner which borders on violating the various federal and state laws governing pornography and obscenity.

70. Upon information and belief, defendants, despite demand from Anger to cease and desist, have used and exploited, and are continuing to use and exploit the name Kenneth Anger in connection with the sale and distribution of the Film in order to capitalize upon the reputation and extensive good will of Plaintiff Anger and to deceive the public into believing that Plaintiff Anger was and is associated with the production and direction of the Film; and there is grave danger that the public will be so deceived.

71. The use of Plaintiff Anger's name in connection with the Film has caused Plaintiff Anger grave mental anguish and distress and has greatly disturbed his peace of mind.

72. Unless the relief herein requested is granted, by virtue of the foregoing, Plaintiff Anger's good will and reputation will be irreparably injured and his status as a producer and

director of films will be greatly impaired.

73. Plaintiff has no adequate remedy at law.

WHEREFORE, Plaintiffs demand judgment as follows:

A. That Defendants and each of them be enjoined from infringing the said copyright of Pauvert in any manner whatsoever.

B. That Defendants Associated and Miller be ordered to pay to plaintiff Pauvert, in lieu of actual damages, damages of $1.00 for each copy of the Infringing Book made or sold or found in the possession of Miller, Associated or any agent or employee of either of them.

C. That Defendants be required to deliver up on oath to be impounded during the pendency of this action all copies of the Infringing Book, the Film, and all other materials in their possession, custody or control which infringe in any manner said copyright of plaintiff Pauvert.

D. That all copies of the Infringing Book, the Film, together will all plates, molds, matrices, negatives, prints or other devices or materials used to make such copies be ordered destroyed.

E. That this Court declare null and void the purported copyright registration by Defendant Associated relating to the Infringing Book, as well as any other copyright registrations obtained by any Defendant relating to the Book, the Film or any other work based on any infringement of the Book, and declare that all such defendants have no rights in the Book or any adaptation or copy of it made in any form or medium whatever.

F. With respect to the second cause of action, in lieu of actual damages, that Defendants be ordered to pay to Plaintiff Pauvert statutory damages in the sum of $5,000 pursuant to Title 17

U.S.C. Section 101 (b).

G. With respect to the third and fourth causes of action, that Defendants be ordered to pay over to Plaintiff Pauvert all gains, profits and advantages derived by any of them from the sale, distribution or exhibition of the Film.

H. That Defendants and each of them be enjoined from using the name Kenneth Anger in connection with the Infringing Book or the Film or in any other manner.

I. That Defendants pay to Plaintiff Anger the full amount of the damages which he has suffered by reason of the use of his name in connection with the sale of the Infringing Book and the promotion, sale and exhibition of the Film.

J. That Defendants Miller and Associated pay to Plaintiff Anger exemplary damages in the amount of $25,000 for the unauthorized use of the name "Kenneth Anger" in connection with the sale and distribution of copies of the Infringing Book.

K. That Defendants pay Plaintiff Anger exemplary damages of $500,000 for the use of the name "Kenneth Anger" in connection with the production, distribution, promotion, sale and exhibition of the Film.

L. That Defendants pay to Plaintiffs appropriate interest and costs of this action and that reasonable attorneys' fees be allowed to the Plaintiffs by the Court.

M. That Plaintiffs be granted such other and further relief as may be just and proper.

DORNBUSH MENSCH & MANDELSTAM
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By s/ CARL L. ZANGER
A Member of the Firm

EXHIBIT A
Cover and Title Pages of Hollywood Babylone (Plaintiffs' Book)

HOLLYWOOD

BABYLONE

© 1959, by éditions J.-J. Pauvert

EXHIBIT A
Cover and Title Pages of Hollywood Babylone (Plaintiffs' Book)

kenneth anger

jean-jacques pauvert, éditeur

BRITISH FILM INSTITUTE
BOOK LIBRARY
791.426.3 9726

EXHIBIT A
Cover and Title Pages of Hollywood Babylone (Plaintiffs' Book)

EXHIBIT B
Cover and Title Pages of Hollywood Babylon (the "Infringing Book")

HOLLYWOOD BABYLON

by KENNETH ANGER

HOLLYWOOD (hol'i•wood'), n. **a** A suburb of Los Angeles, Calif. famous for the motion-picture industry established there. **b** Hence, the American motion-picture industry. — Adj. Of, pert. to, or characteristic of Hollywood.

BABYLON (bab'i•lon), n. [L., fr. Gr. **Babylon**, fr. Heb. **Babel**. See BABEL.] **1.** An ancient Semitic city in the Euphrates Valley, which about 2225 B.C. was the richest and most magnificent of cities. **2.** Any center of luxury and wickedness. **3.** A place of captivity or exile; — in allusion to the fifty-year captivity of the Jews from 597 B.C. by Nebuchadnezzar.

BABEL (ba'bel), n. [Heb. **Babel**, fr. Assyr.-Bab.] **1.** A city and tower in the land of Shinar, the scene of the confusion of languages (**Gen. xi.9**). **2.** A structure impossibly lofty; a visionary scheme. **3.** A place or scene of noise or confusion; also, a confusion of cries, voices, or languages.

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& Universal Copyright Conventions.

EXHIBIT B
Cover and Title Pages of Hollywood Babylon (the "Infringing Book")

Re-Cycle 50-Years Of Hollywood Scandals, Known Or Rumored, For Film On 'Hollywood Babylon'

By ADDISON VERRILL

Gossip mongers have long found supposed behind-the-scene Hollywood hankypanky a prime source of titillation, and back in 1965 underground filmmaker Kenneth Anger ("Scorpio Rising") penned "Hollywood Babylon," a risque rehash of three generations of scandalous rumors about famous personalities echoed while he was growing up in Los Angeles. The book was something of an underground sensation which has since surfaced to sell upwards of 2,000,000 copies in paperback. Now director Edward Forsythe is putting the finishing touches on a screen version which details through-the-keyhole activities of at least 13 celebs who fed the gossip mills in the 1920's.

Forsythe is making the film for the Institute of Adult (Sic) Education which heretofore has concentrated on how-to pix like "The Sensually Liberated Female." Terry Levene's Aquarius distribbery will handle pic for Christmas release.

Though Anger's book included naughty rumors about more contemporary celebs as well, the screen version of "Hollywood Babylon" will concentrate on the '20's. Most of those portrayed in the film are dead and no legal problems are anticipated. Eschewing newsreel material, pic features actors chosen because of their distinct physical resemblance to the celebs in question.

Actually named in "Hollywood Babylon" are early 1920s Ziegfeld

(Continued on page 27)

50 Yrs. Of Scandal

(Continued from page 3)

Follies beauty Olive Thomas and actor Wallace Reid, both involved in drug deaths. Also reprised is the case of comedian Roscoe "Fatty" Arbuckle and starlet Virginia Rappe, with the infamous San Francisco death incident which brought in Will Hays as film czar. Rudolph Valentino also figures in a sequence concerning his fears of being considered a "piak powder-puff" and his subsequent adulation at a Chicago gay bar.

Unnamed but identified by not-very-mysterious descriptive phrases from the Anger book are a number of prominent types whose rumored peccadillos are recreated.

Features based on alleged Hollywood scandals are nothing new, and a segment of the public seem to relish the guessing games involved in such pix as "The Bad and the Beautiful," "The Big Knife," "The Carpetbaggers" and "Where Love Has Gone." Recently, Bill Osco's porno pix compilation, "Hollywood Blue" got a healthy b.o. boost by including a nudie short made in the early fifties by a starlet who bore an uncanny resemblance to the late Marilyn Monroe, as well as a hardcore homosexual short which seemed to star a younger version of a now well-known Hollywood western heman. Biggest fans for this type of material seems to be Hollywood insiders themselves.

Terry Levene, who has already set a number of first run engagements for the pic in U.S. urban keys (as well as selling rights to Japan and Britain), is hoping for an R rating since pic will not contain hardcore sex footage and will not be handled as a sexploitation feature. He is planning a national tour for the celeb lookalikes used in the film, including appearances with Dick Cavett in New York and Merv Griffin on the Coast.

EXHIBIT C

AH, HOLLYWOOD!

Remember what it was like in Hollywood in the bad old days? If you don't, producer Marvin Miller is willing to refresh your memory. His remembrance of naughty things past, called "Hollywood Babylon," was recently filmed right where it all really happened. Directed by Edward Forsythe, the script for "Hollywood Babylon" was adapted by John Carpenter from the 1965 book by Kenneth Anger, who is perhaps best known for his own avant-garde film, "Scorpio Rising." "Hollywood Babylon," which employs an all non-star cast, deals with the off-screen hijinks of 13 of the most glittering stars of the glittering twenties and, says producer Miller, plans are already under way for similar projects involving movie personalities of the thirties and forties. Where's it all going to end?

EXHIBIT D